

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

David Lee Neeley,
Petitioner

vs

Case No. 1:02cv520
(Weber, J.; Black, M.J.)

Harry Russell,
Respondent

ORDER

Petitioner, an inmate in state custody at the Lebanon Correctional Institution in Lebanon, Ohio, brings this action with the assistance of counsel for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 1999 aggravated murder conviction in the Hamilton County Court of Common Pleas. (Doc. 1). In his petition, petitioner challenges the sufficiency of evidence to support his conviction. (*Id.*). Respondent provided this court with a trial transcript to assist in the adjudication of this claim. (Doc. 13). However, the deposition of the coroner, submitted by the state at trial in lieu of his live testimony, was not included in the material provided to this court. (*See* Doc. 13, Tr. 1078). Accordingly, respondent is hereby ORDERED to file the deposition of the coroner within five (5) days of the date of this Order.

Date: September 13, 2004
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s/Timothy S. Black
Timothy S. Black
United States Magistrate Judge